IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6093 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

and

Hon'ble MR.JUSTICE N.G.NANDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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P M ENTERPRISE

Versus

UNION OF INDIA

Appearance:

Mr. N.K. Pahwa for Petitioner.

MR DN PATEL, Sr. Standing Counsel for

Central Government for Respondents No. 1-3

CORAM : MR.JUSTICE M.R.CALLA

and

MR.JUSTICE N.G.NANDI

Date of decision: 03/08/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

Rule. Mr. D.N. Patel waives service on behalf of all the respondents. The order passed by the Commissioner of Customs, Customs House, Kandla on 10th of July 2001 and issued on 11th of July 2001 is an appealable order. Mr. Pahwa submits that he feels advised to file an appeal against the said order. He further submits that petitioner shall deposit the entire due amount of the principal duty before filing the appeal with the concerned authority but the petitioner may be permitted to have release of the confiscated goods on furnishing a bank guarantee of the fine and penalty. He has also submitted that the period of limitation for filing the appeal has not expired so far.

2. In the facts and circumstances of this case, and after hearing both the sides, it is ordered that in case the petitioner prefers any appeal against the order dated 10th of July 2001 and issued on 11th of July 2001 by the Commissioner of Customs, Customs House, Kandla, after depositing the entire due amount of the principal duty and furnishes a bank guarantee for the amount of fine and penalty before the concerned authority to the satisfaction of such authority, the goods which have been confiscated and which are in question shall be released. The requirement of deposit and bank guarantee, as aforesaid, shall be the precondition for release of the confiscated goods. The appellate authority shall decide the appeal at the earliest possible opportunity. It will also be open for the petitioner to make appropriate prayer in the appeal with regard to the amount of demurrage payable to the Port on account of the delay in getting the goods released because of confiscation and it will be open for the appellate authority to pass appropriate orders in accordance with law.

3. In this view of the matter, learned Counsel for the petitioner seeks to withdraw this Special Civil Application. The same is accordingly rejected as withdrawn. Rule is discharged. Direct service.

rmr. [M.R. Calla, J.]

[N.G. Nandi, J.]